

EXHIBIT NO. 1

12
6-14-03

Docket Item #14
SPECIAL USE PERMIT #2003-0023

Planning Commission Meeting
June 3, 2003

ISSUE: Consideration of a request for a special use permit to change the ownership of an existing recycling facility.

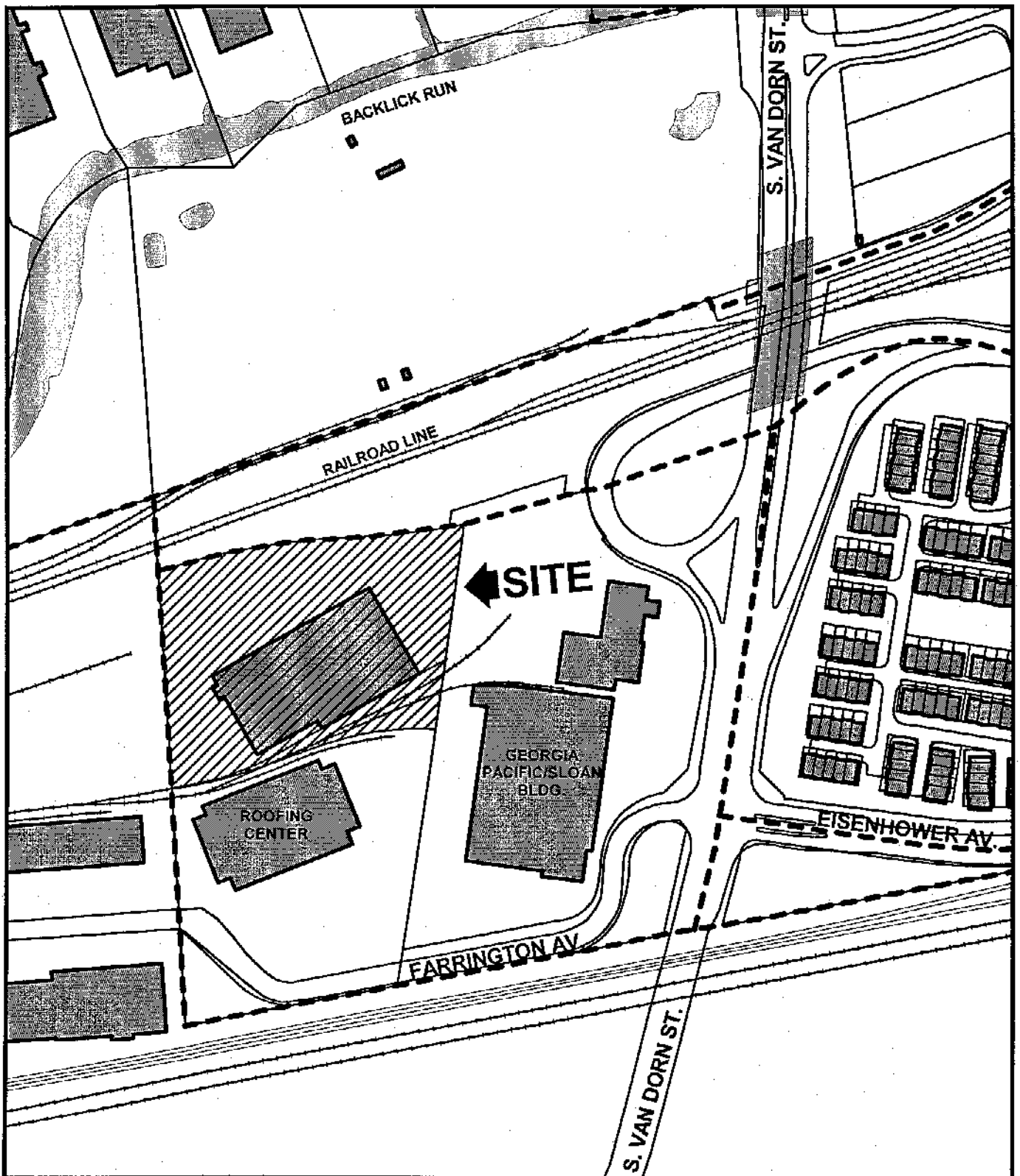
APPLICANT: Recycle America Alliance, LLC

LOCATION: 5902 Farrington Avenue

ZONE: Industrial

PLANNING COMMISSION ACTION, JUNE 3, 2003: By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with the staff analysis.



SUP #2003-0023

06/03/03



STAFF RECOMMENDATION:

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit shall be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z) (SUP #95-0023)
2. Only compaction, processing, shredding and packaging of recyclable material shall be allowed. (T&ES) (SUP #95-0023)
3. Deliveries to the facility shall not exceed 300 tons per day or 80 vehicles a day. Deliveries shall consist of recyclable rich loads of solid waste. Recyclable Rich Loads are defined as no more than 40 percent non-recyclable residue. (T&ES) (Planning Commission) (SUP #95-0023)
4. The hours operation for both loading and unloading of trucks and the processing of materials at the recycling facility shall be as follows:

 Summertime (May 1-September 30)
 Monday-Friday 6:00 A.M. to 5:00 P.M.
 Saturday 7:00 A.M. to 4:00 P.M.

 Wintertime (October 1-April 30)
 Monday-Friday 7:00 A.M. to 5:00 P.M.
 Saturday 7:00 A.M. to 4:00 P.M. (T&ES) (P&Z) (SUP #95-0023)
5. All materials received shall be unloaded within the building only. (P&Z) (T&ES) (SUP #95-0023)
6. **CONDITION AMENDED BY STAFF:** ~~Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible outside the building at the property line. (Health) (SUP #95-0023) (T&ES)~~
7. **CONDITION AMENDED BY STAFF:** ~~No odors shall be permitted to emanate from the property. (Health) (SUP #95-0023)~~ The applicant shall control odors, smoke, fugitive dust and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES)

8. The outside area (i.e. surface parking area, drive area, and the area along all property lines) shall be kept clean and free of all recyclable materials, litter, and debris at all times, and the applicant shall police these areas at least twice daily to insure that this is done. (P&Z) (T&ES) (SUP #95-0023)
9. The transport and pick-up of recyclable materials and residuals shall be along routes authorized by the Department of Transportation and Environmental Services only. (T&ES) (SUP #95-0023)
10. No hazardous materials may be handled, stored, or processed, or generated at the recycling facility. (T&ES) (SUP #95-0023)
11. **CONDITION AMENDED BY STAFF: No solvents, liquid wastes, waste oil, or putrescible material may be handled, stored or processed. No organic compounds may be handled, stored or processed.** (T&ES) (SUP #95-0023)
12. Residuals must be disposed of daily and trash receptacles must be covered at all times when not in use. No overnight storage of residuals on the floor or outside covered dumpsters is permitted. Dumpsters must be dumped on a daily basis. (T&ES) (SUP #95-0023)
13. Residuals shall be disposed of at the Alexandria Waste Energy Plant on Eisenhower Avenue or other facility satisfactory to the Director of Transportation and Environmental Services. (T&ES) (SUP #95-0023)
14. The applicant shall provide to the Director of Transportation and Environmental Services a monthly report, or on such other reporting as is agreed to by the Director, that specifies the jurisdiction of origin of the solid waste delivered to the recovery facility by tonnage, the amount of materials recycled, and the location of the disposal of residuals as agreed to by the applicant. The intent is to direct solid waste from other jurisdictions away from the Alexandria/Arlington Waste-to-Energy Plant, as agreed to by the applicant. (T&ES) (Planning Commission) (SUP #95-0023)
15. **CONDITION AMENDED BY STAFF: No recyclable material shall be stored in the parking lot or areas outside the building and allowed to come in contact with storm water.** No materials waiting for processing or shipment shall be stored outside of the building at any time. (T&ES) (SUP #95-0023)
16. The facility must accept recyclable materials from City of Alexandria residents, businesses and public collection programs. (T&ES) (SUP #95-0023)

17. The applicant shall report annual recycling tonnages to the Office of Recycling indicating the total recycling at the facility, with materials originating with the City of Alexandria listed separately, as agreed to by the applicant. (T&ES) (SUP #95-0023)
18. Condition deleted by Planning Commission. (SUP #95-0023)
19. There shall be no staging of vehicles waiting to use the facility in the City's roadways, public right-of-ways, or other access routes in the vicinity of the facility. (T&ES) (SUP #95-0023)
20. Trucks entering and exiting the facility shall be covered to prevent spillage of debris in route to facility. (P&Z) (T&ES) (SUP #95-0023)
21. The applicant shall post and distribute the rules of operation to truck drivers. (P&Z) (SUP #95-0023)
22. The applicant shall provide 60 foot wide access easement on Farrington Avenue (private street) to serve this site prior to Certificate of Occupancy. (T&ES) (SUP #95-0023)
23. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year from approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions, (b) the director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. That staff may docket for review the special use permit if it believes new conditions may be needed. (City Council) (SUP #95-0023) (P&Z)
24. No construction materials shall be recycled through this operation. (Code) (Planning Commission) (SUP #95-0023)
25. Provide 22-foot wide emergency vehicle easements on two sides of the building and maintain them free and clean of any obstructions at all times. Show emergency vehicle easements on all site plans. (Code) (Planning Commission) (SUP #95-0023)
26. **CONDITION ADDED BY STAFF:** The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation process, to discuss all special use permit provisions and requirements. (P&Z)

27. **CONDITION ADDED BY STAFF:** The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business. (Police)

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

The facility shall comply with the City noise ordinance, particularly in regards to after hours operation. (T&ES)

The facility must comply with Virginia regulations for materials recovery facilities and transfer stations.

DISCUSSION:

1. The applicant, Recycle America Alliance, LLC, requests special use permit approval to change the ownership of an existing recycling facility located at 5902 Farrington Avenue.
2. The subject property is one lot of record with an area of 4.3 acres. The western portion of the lot is in Fairfax County. A 57,400 square foot industrial building occupies the lot. A railroad spur serves the property. Trucks access the property from Farrington Avenue, which is a private street, partially located in Fairfax County. Adjacent uses include roofing and building supply warehouses.
3. On April 22, 1995, City Council granted Special Use Permit #95-0023 to FCR Inc. for the operation of a recycling facility and for a related parking reduction.
4. On April 10, 2003, staff visited the subject property to determine if the business was in compliance with the conditions of its special use permit. Staff issued a ticket for violations of Conditions #8 (litter and debris at the north property line), #15 (glass recyclable material stored outside), and #21 (post and distribute rules) of the special use permit (SUP #95-0023). Staff inspected the site again on April 24, 2003 and found all violations corrected.
5. The change of ownership application was scheduled for review by the Planning Commission and City Council due to the above listed violations. The special use permit request is to approve the transfer of ownership from FCR Inc. to Recycle America Alliance, LLC. The applicant does not propose any operational changes from that approved in the prior special use permit.
6. The recycling facility receives and processes source separated recyclable materials from residents and businesses. These materials include newspapers, cardboard, office papers, glass and plastic bottles, and tin and aluminum cans. This operation employs equipment and personnel to separate the commodities and package them for shipment to end users. Materials are transported primarily by truck. Shipping of materials by rail has been used in the past and may again be used in the future. There are approximately 20 employees.

7. The hours of operation are as follows:

Summertime (May 1-September 30)

Monday-Friday 6:00 A.M. to 5:00 P.M.
Saturday 7:00 A.M. to 4:00 P.M.

Wintertime (October 1-April 30)

Monday-Friday 7:00 A.M. to 5:00 P.M.
Saturday 7:00 A.M. to 4:00 P.M.

8. Zoning: The subject property is located in the Industrial zone. Section 4-1203 (R) of the zoning ordinance allows a recycling facility in the Industrial zone only with a special use permit.
9. Master Plan: The proposed use is consistent with the Landmark/Van Dorn Small Area Plan chapter of the Master Plan which designates the property for industrial uses.

STAFF ANALYSIS:

Staff has no objection to the continued operation of the recycling facility and no objection to the change of ownership. The recycling facility has no history of violations with the City beyond those found by staff in April 2003, and the applicant quickly corrected these violations when notified of them. Staff does not recommend any site improvements since the business appears to operate in an orderly fashion and the site is surrounded by industrial properties.

Staff has updated the conditions to reflect current regulations, recommends a review of the recycling facility in one year, and recommends approval of the special use permit subject to the provided conditions.

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Mary Hashemi, Urban Planner.

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- F-1 A recent inspection of this site found significant debris along the north perimeter of the site and one pile of recyclable material stored outside. These are violations of staff conditions #8 and #15 of SUP #95-0023, but easily correctable. Otherwise the facility is in compliance with all T&ES conditions.
- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.
- R-1 The applicant shall control odors, smoke, fugitive dust and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES)
- R-2 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.(T&ES)
- R-3 No Recyclable material shall be stored in the parking lot or areas outside the building and allowed to come in contact with storm water. No materials waiting for processing or shipment shall be stored outside the building at any time.(T&ES)
- R-4 No solvents, liquid wastes, waste oil, or putrescible material may be handled, stored or processed.(T&ES)

Code Enforcement:

- C-1 A new fire prevention permit is required due to the change in ownership.

Health Department:

- F-1 No comments.

Police Department:

- R-1 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business.

APPLICATION for SPECIAL USE PERMIT # SUP2003-002

[X] Change of Ownership or [] Minor Amendment

[must use black ink or type]

PROPERTY LOCATION: 5902 Farrington Avenue

TAX MAP REFERENCE: 076-01-01-01

ZONE: Industrial

APPLICANT Name: Recycle America Alliance, LLC

Address: 1001 Fannin, Suite 4000, Houston, TX 77002

PROPERTY OWNER Name: Patricia D. Ford, Trustee and

William V. Ford, Trustee

Address: 4001 Round Hill Road, Arlington, VA 22207-4622

SITE USE: Recycling Facility

X) THE UNDERSIGNED hereby applies for a Special Use Permit for Change in Ownership, in accordance with the provisions of Article XI, Division A, Section 11-503 (5)(f) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia. THE UNDERSIGNED, having read and received a copy of the special use permit, he agrees to comply with all conditions of the current special use permit, including all other applicable City ordinances.

[] THE UNDERSIGNED hereby applies for a Special Use Permit for Minor Amendment, in accordance with the provisions of Article XI, Division A, Section 11-509 and 11-511 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby requests this special use permit. The undersigned also attests that all of the information herein required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief.

Michael Taylor, Recycle America Alliance

Print Name of Applicant or Agent

3000 Chestnut Ave Suite 100B

Mailing/Street Address

Baltimore MD 21211

City and State

zip code

443-831-1586 Signature

410-662-8190

410-662-8192

Telephone #

Fax #

3-14-03

Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

Application Received:

Date & Fee Paid:

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Legal Advertisement:

ADMINISTRATIVE ACTION:

Director, Planning & Zoning

app11formsapp-2002

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From 7058388880

TO-RECYCLE AMERICA BALTI

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The following information must be furnished to the Department of Planning and Zoning to determine if the current use conducted on the premises complies with the special use permit provisions and other applicable codes and ordinances.

1. Please describe prior special use permit approval for the subject use.

Most recent Special Use Permit # 95-0023

Date approved: 04 / 22 / 95
month day year

Name of applicant on most recent special use permit FCR, Inc.

Use Recycling Facility

2. Describe below the nature of the existing operation in detail so that the Department of Planning and Zoning can understand the nature of the change in operation; include information regarding type of operation, number of patrons served, number of employees, parking availability, etc. (Attach additional sheets if necessary)

This Facility at 5902 Farrington Avenue receives and processes source separated recyclable materials collected as part of residential recycling programs. These materials include newspapers, cardboard, office papers, glass and plastic bottles, and tin and aluminum cans. This operation employs equipment and personnel to further separate the commodities and package them for shipment to end users. The facility accepts recyclable materials from residents and businesses in the City of Alexandria.

3. Describe any proposed changes to the business from what was represented to the Planning Commission and City Council during the special use permit approval process, including any proposed changes nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, any noise emitted by the use, etc. (Attach additional if necessary)

This Application represents a change of ownership. The new owner will operate the facility in accordance with the existing Special Use Permit conditions.

4. Is the use currently open for business? ☒ Yes ☐ No
If the use is closed, provide the date closed. N/A / month / day / year
5. Describe any proposed changes to the conditions of the special use permit:
None
6. Are the hours of operation proposed to change? ☐ Yes ☒ No
If yes, list the current hours and proposed hours:
Current Hours: Summer: M - F 6 AM - 5 PM
Sat. 7 AM - 4 PM
Proposed Hours: Same
Winter: M - F 7 AM - 5 PM
Sat. 7 AM - 4 PM
7. Will the number of employees remain the same? ☒ Yes ☐ No
If no, list the current number of employees and the proposed number.
Current Number of Employees: 20 Employees
Proposed Number of Employees: Same
8. Will there be any renovations or new equipment for the business? ☐ Yes ☒ No
If yes, describe the type of renovations and/or list any new equipment proposed.
9. Are you proposing any change in the sales or service of alcoholic beverages? ☐ Yes ☒ No
If yes, describe proposed changes:

10. Is off-street parking provided for your employees? Yes No
If yes, how many spaces, and where are they located?

The property has 50 spaces available for employees and
visitors located in front & on NW side of the building.

11. Is off-street parking provided for your customers? X Yes No
If yes, how many spaces, and where are they located?

Same as above

12. Is there a proposed increase in the number of seats or patrons served? Yes X No
If yes, describe the current number of seats or patrons served and the proposed number of seats or patrons served. For restaurants, list the number of seats by type (i.e. bar stools, seats at tables).

Current:

Proposed:

13. Are physical changes to the structure or interior space requested? Yes X No
If yes, attach drawings showing existing and proposed layouts. In both cases, include the floor devoted to uses, i.e. storage area, customer service area, and/or office spaces.

14. Is there a proposed increase in the building area devoted to the business? Yes X No
If yes, describe the existing amount of building area and the proposed amount of building area.

Current:

Proposed:

15. The applicant is the (check one) Property owner X Lessee

 other, please describe:

16. The applicant is the (check one) Current business owner X Prospective business owner

 other, please describe:

SLIP # 2003-0023

17. Each application shall contain a clear and concise statement identifying the applicant, including the name and address of each person owning an interest in the applicant and the extent of such ownership interest. If the applicant, or one of such persons holding an ownership interest in the applicant is a corporation, each person owning an interest in excess of ten percent (10%) in the corporation and the extent of interest shall be identified by name and address. For the purpose of this section, the term "ownership interest" shall include any legal or equitable interest held in the subject real estate at the time of the application. If a nonprofit corporation, the name of the registered agent must be provided.

Please provide ownership information here:

The applicant is Recycle America Alliance, LLC, Waste
Management, Inc., a Publicly Traded Delaware Corporation
owns 91% of Recycle America Alliance; the remaining 9%
is owned by Peltz Holdings, Inc.



ALEXANDRIA DEPARTMENT OF
PLANNING AND ZONING
301 King Street, Room 2100
Alexandria, Virginia 22314

NOTICE OF VIOLATION

YOU ARE CHARGED WITH VIOLATING THE
ALEXANDRIA, VIRGINIA ZONING ORDINANCE

4.10.03 Thurs 3:26
Date ticket served Day of Week Time AM/PM

Location of Violation: 5902 Farrington
Avenue

Ord. Section: 11-500

Description of Violation: SUP 95-0023

Violations of conditions
#8 (litter and debris at
north property line), #15
(glass recyclable material stored
outside), #21 (post + distribute
rules)

Penalty \$: 0 - No Fee

☐ 1st ☐ 2nd

☐ 3rd/MORE ☒ Warning

IF THE VIOLATION IS NOT CORRECTED BY
10 days AN ADDITIONAL MONETARY
PENALTY WILL BE ASSESSED. April 20th

Mary V. Haskew
Inspector's Signature ID Number

I personally observed or investigated the commission of the
violation noted above and/or violation was based upon signed
affidavit.

VIOLATORS COPY - WHITE
CITY ATTORNEY COPY - YELLOW
FINANCE COPY - PINK
PLANNING AND ZONING COPY - ORANGE

NOTICE SERVED ON:

NAME: LAST FIRST MIDDLE

☐ PROPERTY OWNER
☐ COMPANY

NAME

POSITION

☐ OTHER

ADDRESS

CITY/TOWN STATE ZIP

SIGNATURE DATE

I hereby acknowledge receipt of this Notice of
Violation. Signature is not an admission of guilt.

☐ PERSON REFUSED TO SIGN DATE

CERTIFICATE OF SERVICE

☒ Mailed/posted a true copy of this notice to the last
known home or business address of the respondent
or the respondent's agent

Michael Taylor
Name of Person or Business Served

3000 Chestnut Ave, Ste 100B
Address of Service

Baltimore MD 21211
City/State

Faxed: 410.662.8192
☐ Posted true copy of this notice at the site of the
infraction

The undersigned states that he/she is an employee
of the City of Alexandria Department of Planning
and Zoning and knows this Certificate of Service to
be true to the best of his/her knowledge.

Signature

Print Name

Date Phone #

WARNING

YOU ARE REQUIRED TO RESPOND TO THIS NOTICE
OF VIOLATION WITHIN 15 DAYS OF THE DATE OF
SERVICE IN ONE OF THE FOLLOWING WAYS

1. TO PAY PENALTY AND WAIVE YOUR RIGHT TO A HEARING:

- Check the "Admit Violation" or "No Contest" box below;
- Make personal check, cashier's check, certified check or money order payable to City of Alexandria. Do not send cash through the mail;
- Print violation notice number on the check or money order;
- Payment may be made by mail, or in person, at the Treasury Office, City Hall, 301 King Street, Room 1510, Alexandria, Virginia, between the hours of 8:00 a.m. - 5:00 p.m., Monday-Friday, phone 703-838-4949.

2. TO REQUEST A COURT HEARING:

- Check the "Contest in Court" box below and:
(a) Mail this completed notice to the Office of the City Attorney, City Hall, Suite 1300, 301 King Street, Alexandria, Virginia, 22314; or
(b) Appear in person or by an authorized representative, at the above address between the hours of 8:00 a.m. - 5:00 p.m., Monday-Friday, phone 703-838-4433.

- If you wish to contest this violation a date will be set for trial in the General District Court of Alexandria, Virginia. Failure to appear in court on the date set for trial, unless prior approval has been granted by a judge of that court, will result in the entry of a default judgement against you.

3. TO CONTEST THE INTERPRETATION OF THE ORDINANCE:

- You have the right to appeal the interpretation of the zoning ordinance upon which this violation is based to the Board of Zoning Appeals within 30 days in accordance with 15.2-2311 of the Code of Virginia. The interpretation shall be final and unappealable if not appealed within 30 days.

FOR INFORMATION CONCERNING THIS TICKET CALL
PLANNING AND ZONING AT 703-838-4688

FAILURE TO RESPOND AS PROVIDED ABOVE WILL RESULT
IN THE ISSUANCE OF A SUMMONS TO APPEAR IN COURT
AND ANSWER TO THE VIOLATION FOR WHICH THIS NOTICE
WAS ISSUED

YOU MUST COMPLETE AND SIGN THIS
CERTIFICATION:

☐ ADMIT VIOLATION ☐ NO CONTEST ☐ CONTEST IN COURT

Name (print)

Street Address

City State Zip

I hereby certify under penalty of law, that I have
answered as indicated above, and corrected or made
substantial efforts to correct the violation that I have
admitted or for which I have pleaded no contest.

Signature Date

F-PLN-0071 (7/00)

APPLICATION for SPECIAL USE PERMIT

[X] Change of Ownership or [] Minor Amendment

[must use black ink or type]

PROPERTY LOCATION: 5902 Farrington Avenue

TAX MAP REFERENCE: 076-01-01-01

ZONE: Industri

APPLICANT Name: Recycle America Alliance, LLC

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Michael Taylor, Recycle America Alliance

Print Name of Applicant or Agent

3000 Chestnut Ave Suite 100B

Mailing/Screen Address

Baltimore MD 21211

City and State zip code

Signature 443-831-1586

410-662-8190 410-662-8192

Telephone # Fax #

3-14-03

Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

Application Received:

Date & Fee Paid:

5

Legal Advertisement:

ADMINISTRATIVE ACTION: PLANNING COMMISSION ACTION: RECOMMEND APPROVAL, UC

CITY COUNCIL ACTION:

Director, Planning & Zoning

pp11 form app-2002

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From 7038385888

To-RECYCLE AMERICA BALTI

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ACTION-CITY COUNCIL: 6/14/03PH--CC approved the Planning Commission recommendation.